Richard G. Neuheisel (State Bar No. 001659) 1 NEUHEISEL LAW FIRM, P.C. 2 1501 W. Fountainhead Pkwy, Suite 130 Tempe, Arizona 85282 3 Telephone (480) 838-5000 Facsimile (480) 557-6366 Fax 4 richard@neuheisel.com 5 Attorney for Plaintiff 6 UNITED STATES DISTRICT COURT 7 **DISTRICT OF ARIZONA** 8 9 SHIRLEY HLAVATY, Case No. 10 Plaintiff. COMPLAINT FOR DAMAGES UNDER THE FEDERAL TORT 11 **CLAIMS ACT** VS. 12 UNITED STATES OF AMERICA, [Demand for Jury Trial] 13 Defendant. 14 15 NOW COMES the Plaintiff Shirley Hlavaty, by her attorneys, and for her complaint 16 against the Defendant United States of America, states as follows: 17 1. On March 30, 2009, the Plaintiff Shirley Hlavaty was an adult individual and 18 resident of the County of Maricopa, State of Arizona. 19 2. At all times material hereto the Defendant United States of America was 20 conducting airport security through the Transportation Security Administration at Phoenix 21 Sky Harbor Airport in Phoenix, Maricopa County, Arizona. 22 3. The claims herein are brought against the United States pursuant to the Federal 23 Tort Claims Act (28 U.S.C. section 2671, et seq.) and 28 U.S.C. section 1346(b)(1) for money 24 damages as compensation for personal injuries that were caused by the negligent and 25 wrongful acts and omissions of employees of the United States Government, and particularly 26 of the Transport Security Administration, while acting within the scope of their offices and 27 employment, under circumstances where the United States of America, if a private person, 28

would be liable to the Plaintiff in accordance with the laws of the State of Arizona.

- 4. Plaintiff has fully complied with 28 U.S.C. section 2675 of the Federal Tort Claims Act in that she filed a claim with the Transportation Security Administration on April 30, 2009, which claim was deemed presented by the Transportation Security Administration on June 24, 2009. Said claim has not been settled or denied as of this date. A true and correct copy of said notice of claim is attached hereto as Exhibit "1" and incorporated by this reference.
- 5. On March 30, 2009, while going through security checkpoints at Phoenix Sky Harbor Airport in Phoenix, Maricopa County, Arizona, Plaintiff sustained serious, permanent, and disabling injuries when she was knocked down to the ground by an agent, servant, and/or employee of the United States of America and/or the Transportation Security Administration.
- 6. At the aforesaid time and place, the Defendant, by and through its agents, servants and/or employees, had a duty to carefully and prudently assist persons such as Plaintiff herein, who is 81 years old, as she was processed and passing through the security checkpoints at the aforementioned airport.
- 7. At the aforesaid time and place, the Defendant, by and through its agents, servants and/or employees, neglected and/or disregarded said duty and caused Plaintiff to lose her balance, be knocked down, and/or fall as hereinbefore alleged.
- 8. At the aforesaid time and place, the Defendant, as the maintainer of the aforementioned premises, by and through its agents, servants and/or employees, acted with less than reasonable care and was then and there guilty of careless and negligent acts and/or omission which included, but are not limited to, the following:
 - a. Improperly operated, managed, maintained and controlled its premises in failing to properly maintain the aforementioned security checkpoints;
 - b. Failed to make a reasonable inspection of its premises when it knew or in the exercise of ordinary care should have known that said inspection was necessary to prevent injury to the Plaintiff and others lawfully on or around said premises;
 - c. Allowed the aforementioned premises to remain in a dangerous

1	condition, making the premises unsafe;
2	d. Improperly designed, constructed, maintained, repaired, or operated the
3	premises in such a manner as to make it unsafe or dangerous for persons
4	on the premises;
5	e. Was otherwise careless and negligent in the operation or maintenance of
6	its premises.
7	9. As a direct and proximate result of the foregoing negligent acts or omissions of
8	the Defendant, Plaintiff sustained severe and permanent injuries, both internally and
9	externally, and was and will be hindered and prevented from attending to her usual duties and
10	affairs of life, and has lost and will in the future lose value of that time as aforementioned.
11	10. As a further direct and proximate result of the aforesaid careless and negligent
12	acts of the Defendant, Plaintiff then and there suffered great pain and anguish; both in mind
13	and body, and will in the future continue to suffer. The Plaintiff further expended and will
14	expend and become liable for large sums of money for medical care and services endeavoring
15	to become healed and cured of said injuries.
16	11. Plaintiff hereby demands a jury trial in this action.
17	WHEREFORE, Plaintiff Shirley Hlavaty prays for judgment against the Defendant in
18	such an amount in excess of this Court's jurisdictional requisite as will fairly and adequately
19	compensate the Plaintiff for her injuries, losses and damages as hereinabove alleged, costs of
20	suit, and any further relief which this Honorable Court finds fair and just.
21	DATED this 29 th day of March, 2011.
22	NEUHEISEL LAW FIRM, P.C.
23	By: /s/ Richard G. Neuheisel
24	Richard G. Neuheisel
25	1501 W. Fountainhead Pkwy, Suite 130 Tempe, Arizona 85282
26	Attorney for Plaintiff
27	ORIGINAL of the foregoing submitted
28	to CM/ECF on this 29 th day of March, 2011.